



Town of Jericho
Development Review Board

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Development Review Board
Jericho Town Hall
Thursday, December 10, 2015

Minutes

Members Present: Barry King, Joe Flynn, Jeff York, Stephanie Hamilton
Members Absent: Christopher West
Guests: Michelle Patrick (Zoning Administrator), Amy Richardson (Secretary)
Public: David Burke, Randy Babineau, D. Keiko Williams, Josh Girard, Nicole Yandow, Chris Yandow, Robert Hill, Lisa Hill, C. Hamel, Mark Fasching, Joan Abbott, J.D. Bugbee, Jim Carroll, Dean Davis

MEETING AGENDA

- A request by the Town of Jericho and landowners Mark Fasching and Christa Alexander for Sketch Plan Review of a trails access parking area *and* a proposed trail along the Winooski River. The parcel is located at 269 Onion River Road (Vermont Route 117), approximately 175 feet north of the intersection with Barber Farm Road, in the Agriculture Zoning District.
- A request by Great Northern Development Corporation (with landowners Stephen and Frances Boucher) for a Sketch Plan Review of a Planned Unit Development (PUD). The parcel is +/-37 acres, located at 3 Raceway Road in the Village and Agriculture Zoning Districts. The project includes plans for seven units on seven lots (+/- .60 acres each), and one remaining open lot (+/-30 acres).
- A request by Robert and Lisa Hill and Burton Rawson for a Sketch Plan Review of a boundary line adjustment (minor subdivision). The proposed acreage to be transferred is +/-100 acres. This project is located at 318 Cilley Hill Road in the Agriculture Zoning District.

Mr. King called the public meeting to order at 7:00 p.m. He read the warning. He asked the members to disclose any conflicts of interest or ex parte communication. Mr. Flynn said he has a conflict with the third hearing relating to Hill and Rawson because he is representing them in the boundary line adjustment. He said he will recuse himself from that hearing. Mr. King read the Interested Persons Law. The public was sworn in at 7:06 p.m.

- 1. A request the Town of Jericho and landowners Mark Fasching and Christa Alexander for Sketch Plan Review of a trails access parking area *and* a proposed trail along the Winooski River. The parcel is located at 269 Onion River Road (Vermont Route 117), approximately 175 feet north of the intersection with Barber Farm Road, in the Agriculture Zoning District.**

Applicant's Presentation

Mr. Fasching said he inherited the project from Lacy/Symington when he purchased the property. He said the Trails Committee had already come up with a plan for a parking area. He said the property is also under agricultural easement development through the Vermont Land Trust, which basically conveyed a right to the Town of Jericho to designate a parking area, that is an existing pull out

already, and a trails corridor along the river. Mr. Fasching stated we had some initial minor concerns with the updated parking area, which for the most part have been addressed.

Mr. Carroll said he is on the Trails Committee with John Abbott. He stated what we thought was a benign project, picking up from a year ago; we found the permit had lapsed and the approval had lapsed. He said in the process of staff review, and applying the regulations as they were understood, several things bubbled to the surface. Mr. Carroll said first and most significant one is that we believe we need to ask for a variance because the pre-existing right of way does not comply with the current regulations and it is not physically possible to make the revised one compliant. He said in simple terms, the setback for where the parking will be is not 35' from the right of way. He said what we thought was relatively simple to respond to Mark and Christa's needs and get this thing built, now has a component that the DRB needs to address.

Mr. Carroll said he believes this qualifies for a variance; he thinks it meets all the criteria. He stated it wasn't brought about by any of the people, this is a pre-existing condition that is being materially improved and brought into compliance with Rule 78 for Vermont Agency of Transportation. He said we are taking an unsafe condition and making it a safe condition that is compliant with the regulations. Mr. Carroll said it was designed by the Town Engineer and if in fact the 35' setback rule is going to be applied to the parking, he has a bunch of pictures, and he thinks that is a pivotal piece.

Mr. Carroll said the reason why we are here for Sketch Plan Review because there is really only one abutter and that is the people who are in the colonial house, who understood when they purchased the Governor Chittenden mansion that this is going to be here. He said we can just leave it as it is and continue to use it, or we can improve it; make it safer, make it more functional, and take advantage of the easements that were granted to the Town; that is the first question. Mr. Carroll said the second question, Michelle has been working with the State, this whole trail ends up in some type of overlay area. He stated Michelle can quote exactly what the overlay areas are, but this use, which is not agricultural because it is in the overlay district has to be brought in front of the DRB. He said he doesn't believe the intentions are, I'll show the pictures in a few minutes, the intentions are to do anything that is actually in the flood plain.

Ms. Patrick stated the dotted lines and stripes are two pieces of information. She said the purple lines are Jericho's River Overlay District and that contains all of the FEMA (Federal Emergency Management Administration) flood plain and the regulatory floodway. She said building in the regulatory floodway and the flood plain has some pretty restrictive qualities to it. Ms. Patrick stated anything in the regulatory floodway is not really allowed, noting there are a few things. She said right now the trail really is following the river, indicating the location. She said it is pretty much any development, or man-made changes, need to be overseen by the State and be proven to be hydrologically sound.

Ms. Patrick stated there will be further review for that, and it is conditional use approval for the DRB, which is why we are here. She said that also applies to the trail access parking area, which is also contained in that overlay. Mr. King clarified the proposed parking area is in the River Overlay District, not in the regulatory floodway. Ms. Patrick said it is in the River Overlay District and the Special Flood Hazard Area. Mr. Carroll stated it is his understanding that the elevations have not in fact been sited, is that correct. Ms. Patrick said she doesn't have any information on elevations.

Mr. Carroll said he believes FEMA is defined by elevations, so these are approximations in terms of where the floodway is. Ms. Patrick said it is both; it is elevations and it is distance from the top of the bank and the river. Mr. Carroll said we thought this was a simple redo the existing application with several minor changes to address the agricultural uses; we had an agreement on the basis of what we submitted. He said we pulled the application and we wanted to come in to have a discussion because if the variance issue with respect to the setback, or the use of it as a trail requires a conditional use; neither of those were addressed in the prior application.

Mr. Carroll described pictures as they were displayed. He expressed concerns that it is a debris site. He said some people have expressed concerns about stormwater, pointing out that it is ledge, saying he doesn't think we could have a better receiver of water than solid rock. Mr. Carroll said where we are trying to put the tiny bit of stormwater, it is heading out onto that solid ledge. He continued to describe the pictures, noting the following:

- Vandalism concerns: we are putting in better safety and better controls;
- How water flows in the area;
- Location of the river;
- How they would build a pathway over the swales;

Mr. Fasching stated it is all in the flood plain. Mr. Carroll said there is no evidence up by the fence of any flotsam being caught on the fence. He indicated the flood plain area, saying you can see the debris and the heavy vegetation. Ms. Patrick asked if there is anything else Mr. Carroll wanted to show us with the pictures. Mr. Carroll described the remaining pictures, discussing flooding, erosion, and the trail opportunity. He stated we have these three problems: 1) potential need for a variance for the established parking; 2) being in the setback; and 3) a recreational use in the two overlay zones.

Mr. Fasching said the trail easement that was conveyed by the previous landowners to the Town was pretty specific about corridor location, noting there is a map that goes with that trail easement. He stated that corridor may or may not work in some locations. He said it is a matter of meeting with the Trails Committee on the ground and finding some locations that work for both parties. Mr. Abbott emphasized that access to the trail is contingent upon having a parking area. He said if we are not able to make that parking area compliant and safe, there really is not going to be a way to access it. He stated that has been our primary priority before we can think about constructing trail.

Board Questions

Mr. York clarified there is a permit from the State, asking if that was an access permit that was issued in June 2014. Mr. Carroll said yes, it is permanent. Mr. Abbott said the permit was for the new road cut the Engineer had designed to address the issue around the corner and people coming down Route 117 from the north. Mr. Carroll discussed how it improved the access. Mr. York asked where the entrance is now. Mr. Carroll indicated the location on the plan. He said we are going to establish a swale and they are going to put a guardrail in and put the roadway over toward the telephone pole. He said the crosshatch is all new, saying we complied with what the State wanted and this design was done by Mike Wiesel.

Mr. Carroll stated we have just made some adjustments to make sure in our proposal that the edges are hard enough for when Mark wants to bring an agricultural trailer in there. He said we didn't change the overall access or the parking area, saying we added posts and columns, so if in fact it was a problem, it could be gated. He said to make sure people aren't going over toward the mansion, we put posts and gate potentials over there as well to try to meet Christa and Mark's needs.

Mr. King said you mentioned one of the concerns trying to address with all of this is access control, off-hours access and so on. He clarified there is a potential to gate it if you need to do that. Mr. Carroll agreed, saying we would be adding signage that you are on private property and are subject to these rules. He stated the proposal he has is a dusk to dawn, so it is not used after hours. He discussed how that would be handled and the proposed rules. Mr. King said this is not something we really need to solve tonight, but it will be a serious concern when we go to do the approvals. He stated the experience at the Mobbs Farm might be instructive, so you can explain how that has worked, or hasn't worked; that would probably be a good way to address it. Mr. Carroll said making these changes in order to meet the criteria to establish a variance, we need to be adding value and improvements here in order to get a variance, which is part of the reason we are doing this.

Mr. King said regarding the variance, there is a variance for the flood plain and the general variance for the setback rule. He said you have already explained you understand what the criteria are. He said with a quick read, it seems to meet the criteria, making it better. Mr. King said the primary thing is that the reason for it is that the lay of the land fairly demands it. He stated you will have to establish that at the hearing. He said our job tonight is to make clear what the criteria are you will have to meet.

Ms. Hamilton asked if the parking lot and the trail need State approval, or just the trail. Mr. Carroll said in Vermont we have lots of entities, noting all of the approvals they need from the various agencies. Mr. King stated all of the things you are talking about doing are structures, and once you talk about structures, that is a hard line change of use. He said using the trail is not, but building something certainly is, and you are proposing to do that. He stated you will have to be careful to make sure you have all the permits in place to build structures.

Mr. King said it is our procedures in the flood hazard regulations, and it could trigger the other agencies. He stated that is what we will be needing to look at, is the flood hazard area regulations. Ms. Patrick said the Regional Flood Manager will have to approve any development that happens in this area. Ms. Hamilton asked if there has been any discussion. Ms. Patrick responded that she has spoken with her and there is a process we have to go through, noting what will need to be proved. Mr. King stated the regulations are fairly clear, referring to Section 8.7.1.1. He described what is required.

Mr. Carroll said there are only three things we would be doing, other than what was already permitted. He described what would be done to modify what is already there to get over these stream flooding ways, noting the reasons. He stated we know we have to deal with Rebecca Fifer and she seems very willing to work with us on this. Mr. Abbott stated the project overall pretty closely parallels the existing river trail in Richmond. He said it is equivalent in terms of its intended use and requirements. He said, similar to what Jim was talking about, there are a few areas that will require some kind of structure for safety reasons.

Mr. Carroll said we obviously would do something low profile, something that will not obstruct or cause a diversion of water. Mr. King added another thing in our regulations which applies to people who are building something in the flood plain, Section 8.9. He described what is required to seek a variance. He and Mr. Carroll discussed the matter further. Mr. Flynn asked if the Town is also looking to pick up an access easement. He asked how are we getting to the parking area. Mr. Carroll said he thinks you are talking about the grant to the Town from Lacy/Symington. Mr. Flynn said he is looking at the documents included in this, noting the schedules. He said he is not sure if these are

the final documents. Mr. Carroll stated it is a done deal in terms of the easement is done, but what Mark was saying was that when that was done, it was foggy and it may be that when we are done to meet his needs, that the easement may or may not need some modifications. He said if the easement does not now say you don't have the right to get off Route 117, you may have discovered something we didn't realize. Mr. Flynn stated he is concerned about that, in regards to the safety of the Town too. He said the description just roughly describes the parking area, it doesn't say you have access to get in there across private property. He said it is loose worded; there are some recommendations that really should be followed through in regards to Wiesel's plan, saying there should be a separate easement plan drafted, distinctly placing this. Mr. Carroll agreed. He and Mr. Fasching discussed the matter further with Mr. Flynn. They also discussed the documents and how the documents should be filed. Mr. Carroll stated the Trails Committee would like this to be a signature project, so that other landowners will grant easements for trails across their properties.

Mr. Flynn asked, in regards to stormwater, you mentioned ledge; he has never heard of ledge treating stormwater. Mr. Carroll said no, erosion is our biggest problem on those types of slopes and there are very well-established drainage ways from the farm field to Skunk Hollow Road. He stated the drainage ways were done as repairs; the only things we are talking about doing is jumping over two of the established drainage ways. Mr. King clarified we are talking about the parking lot. Ms. Patrick added the grade of the access. Mr. Carroll stated we are diverting the water that is presently coming off of Route 117 onto the parking lot and then flowing down the trail. He said we are catching above the parking and diverting it over to the east, where it will be treated by the established grasses and so forth that are already there. He discussed stormwater further.

Mr. Abbott said this is the design we originally received permission for; there is no change in design. He said what we are trying to address is the need for a variance. Mr. Carroll stated we follow the low impact handbook and the best practices on all of the improvements. Mr. King clarified those are construction rules; we are talking about the end result. Mr. Flynn said Mike mentioned the first time that they were under the disturbed area on this project. Mr. Carroll agreed, saying we are not disturbing very much; we should be regarded as improving it.

Mr. Flynn said regarding the parking spaces issues, staff had questions as to whether they fully fit in there or not. Ms. Patrick stated the regulations say there needs to be 35' setback from the road for any non-residential parking that is over five cars. She said the plan itself doesn't show that it can fit five cars, but even if the variance is applied would they have enough room and would that be appropriate. She said that is something that could be established at final review.

Mr. King clarified is she asking what the minimum number of parking spaces that are required. Ms. Patrick said the reason we are here is because anything over five parking spaces requires review by the DRB, so if they were to do four spaces then they could just build this access without DRB approval. Mr. King said except for the variance. Ms. Patrick said now there is a slew of other issues that creep up; that was the original requirement for site plan approval. Mr. King clarified that is what brought the original one for review.

Ms. Patrick asked Mr. Flynn if there was a different question he was asking. Mr. Flynn said it would have been nice to see the parking spaces delineated and a scale on the site plan. Ms. Patrick agreed, saying this will be gravel parking lot, so the spaces wouldn't be delineated. Mr. King said they wouldn't be striped, but that doesn't mean they aren't delineated on the plan. Mr. Fasching asked what is driving the number of spaces. Mr. Carroll said it wasn't driven by us, there are more than that

now, so Mike looked at what he thought could be done correctly within the existing confines without expanding the project. He said there is no traffic study, saying six is the maximum you can have without getting into some pretty significant changes. He said when it is controlled Mark, you will end up with fewer spaces than are there now. Ms. Patrick stated there is no way people can really walk to this location. She discussed how the number was determined to be a reasonable number. Mr. Carroll agreed.

Public Comment

Mr. Hamel said he lives on Skunk Hollow Road near Route 117. He asked for someone to clarify where the trail is going to go from the parking area, saying he is curious where the trail is going to go on the other end toward Skunk Hollow Road. Ms. Patrick displayed the map. Mr. Carroll indicated the parking area, the existing roadway to the west, noting there is potential for it to go all the way to the major flow way. He said if you want to go beyond that point you would need a bridge, saying it is flow from the whole upper area. He stated the maximum the trail could run is to the bottom of Skunk Hollow Road.

Mr. King oriented everyone. Mr. Abbott said the line is a rough delineation of where the property ends. Mr. Fasching stated the Vermont Land Trust has a proposed corridor; indicating on the map what is proposed. He said what the Trails Committee can build may be another matter. Mr. Carroll stated that would require engineering to get across that swale. Ms. Patrick indicated the trail in the other direction. Mr. King noted where Barber Farm Road is located on the map.

Mr. King explained the purpose of Sketch Plan Review was to discuss all of these items. He closed the hearing. Mr. Carroll asked if the DRB wants a site visit. Mr. King said it depends on what we are trying to establish when we look at a plan. He and Mr. Carroll discussed the matter further. Mr. King said the DRB will not act on this until an application is received.

2. A request by Great Northern Development Corporation (with landowners Stephen and Frances Boucher) for a Sketch Plan Review of a Planned Unit Development (PUD). The parcel is +/-37 acres, located at 3 Raceway Road in the Village and Agriculture Zoning Districts. The project includes plans for seven units on seven lots (+/-60 acres each), and one remaining open lot (+/-30 acres).

Applicant's Presentation

Mr. Burke introduced himself and Josh Girard, who is one of the applicants, saying he has a Purchase and Sale on the property. He indicated where Josh lives off of Raceway Road. He oriented people to the plan. He noted what parcels were part of the Boucher property, saying they left frontage on Raceway Road and on Route 15. Mr. Burke said it is a 37-acre parcel, noting the overall parcel shows up here. He stated it is vacant parcel, 37 acres in size; it is split zoned. He said where we are proposing the project it is entirely in the Village District. He indicated the zoning line.

Mr. Burke said in theory, based on the 37 acres, we came up with 26 units; just a hypothetical number. He said what we are trying to do is to propose use in the meadow area. He said the meadow area is lower, saying there is a plateau along Route 15. Mr. Burke indicated the current access to the meadow from Route 15. He indicated where they are proposing to come in, diagonally across that slope. He said the regulations and the State standards are to avoid direct accesses onto major roads, if possible.

Mr. Burke said in this case that means come off of Raceway Road instead of Route 15. He said we are proposing it back as far as we can. He indicated the access, saying we chose not to come in here because it would be direct access to Route 15, it wouldn't leave a big distance to Packard Road, and it would be steeper. Mr. Burke said from the elevation up here to elevation down in the field, you are talking about a 25' difference; with proposed grading there will be a 200' section of about 10%. He said that is yet to be designed, but we will be able to easily meet the standard without very much grading, with a little bit of cut at the top and a little bit of fill at the bottom.

Mr. Burke stated the proposal itself is for seven single family lots clustered in that meadow area and the balance of it is common land. He said as proposed, there are 31 acres of the 37 acres that would be common land owned by a homeowner's association, 83% of the parcel. He stated there would be no further development; this is PUD (Planned Unit Development) and this is what is being proposed. Mr. Burke said there is a 22' road with a cul-de-sac. He said conversations with CWD (Chittenden Water District) we would be able to connect here to the water district and bring municipal water to the site. He stated the plan shows individual on lot septic, noting further testing is needed on all lots, but two of the lots it is questionable whether they will stay on lot. He stated they may have to go to an easement over in this area.

Mr. Burke said they will be doing further testing with the State. He said on the far end of the meadow there is a wetland in this vicinity, noting the boundary of the wetland. He indicated the 50' buffer of the wetland, saying we are proposing no impact to the wetland or the buffer. Mr. Burke said quite often we do not have wetlands delineated at sketch level, but given the time of the year we wanted to make sure that our layout could be done without the impacts.

Mr. King asked if they did get it delineated and that is what is showing on the plan. Mr. Burke stated it was delineated by Allen Quackenbush, now a private consultant, who six months ago was the head of the wetlands division. He stated it is delineated; saying we located it, this is the 50' buffer. He said the 50' buffer on proposed Lots 5 and 6 form the setback line for that lot. Mr. Burke state the lots range from 0.55 to 0.93 acres. He said we are in the village zone and with a PUD we are allowed to go as little as 0.33, or 0.5 in the agricultural zone. He said all of these lots are in the village zone, but we think in Jericho most buyers want more than 1/3 of an acre; 1/3 acre is tough with on lot septic.

Mr. Burke said this is a really nice development in my opinion. He said it has 83% open space and every lot has direct access to that open space. He added there is an opening that provides access from the road. Mr. Burke said we also elected to maintain this farm road and the proposed the property line for Lot 1 here, rather than over here. He said in this zone we are required to have a 50' buffer; that buffer can be part of the lot, it would be part of the setback if it was on the lot. He said we chose not to do that, we chose to give a better buffer; so you have the 50' and the standard backyard setback on the closest lot, or the 50' and the standard side yard setback. Mr. Burke stated we are not looking for any waivers as part of this project that I have identified. He said the lot sizes exceed the PUD requirements; the frontages are good; the setbacks are your conventional setbacks, we are not looking for reduction on front, side, or rear setbacks.

Board Questions

Mr. York asked where the flood plain is located. Mr. Burke indicated on the plan, saying it never crosses the rail bed. He said it is maybe 50' to 60' north of the rail bed. Ms. Patrick asked if she could show the whole parcel. Mr. Burke agreed, then indicated the line on the map and where the

lots are proposed. Mr. York asked about the shadings. Ms. Patrick said it shows the difference in the flood plain; the regulatory floodway, which is encompassing the flat space that regularly floods and the 100-year flood plain. Mr. King asked if the purple is our River Overlay District. Ms. Patrick said no, that is not on the parcel. Mr. Burke said it may coincide with mapped wetlands, noting the area they delineated was not mapped. He and Ms. Patrick discussed the matter further.

Mr. Flynn asked if there will be on-site stormwater. Mr. Burke said yes, we will be 1.09 acres, so we will have to have a State stormwater permit. Mr. Flynn asked how it would be handled on the common land. Mr. Burke stated we don't know yet; we haven't done any stormwater design yet. He said at the beginning of the site, the best soils are along this side and they get shallower as you go in that direction. He said we may try to do some infiltration before the top of the hill to treat that first section of road and then we may try to grade the cul-de-sac back this way and do some infiltration again, but I don't know yet.

Mr. King asked Mr. Burke to explain the present land use across both parts of it. Mr. Burke responded that Josh may be able to because he lives right here. He noted this has historically been hayed, but I haven't gone back on how long it has been. He stated it was hayed between the time I went out to do test pits and when I went back to look at the wetlands it had been hayed. Mr. Girard said it is hayed twice per year. Mr. King said there is always Town Plan concern about growing houses on what used to be agricultural land. Mr. Burke discussed the matter further, noting the zoning line and what amenities are nearby.

Mr. Flynn said I know you are showing the overlay district. He said for clarification, there really isn't any more room to build in there is there. Mr. Burke said I looked at it from a septic standpoint and in my opinion, unless we were doing duplexes or two bedroom units, the seven single family homes fit comfortably. He discussed the theoretical density of the property further. Mr. Flynn clarified his question was more, outside of what you have here, there is no more buildable area on the property before you get into more wetland or flood plain. He said of the 30+ acres, this is the only real buildable area. Mr. Burke it is the bulk buildable area, saying I haven't gone across the Browns River and there are overlays to be concerned about. He discussed the upland and wetlands on the property. Mr. Flynn asked if the 60' wide off the cul-de-sac is just for access, or is it for possible development. Mr. Burke said no, this is PUD and the common land is the common land for these seven units. He said the second potential for this is to treat stormwater with the wetlands, discussing the State's position over the years.

Mr. York asked if Raceway Road takes a big dip where that driveway comes out. Mr. Girard responded no. Mr. Flynn said there is pretty good sight distances. Mr. Burke said the sight distances are limited to the intersection. He, Mr. Girard, and the DRB members discussed the access further. Mr. York asked about the septic for the condos. Mr. Burke said I need to locate the septic and the wells for the condos. He said indicated where he believes they are located, saying they are outside of the zones. He stated I am going to have them located and shown on the plan.

Mr. Burke noted that part of the reason Josh got the parcel under a Purchase and Sale Agreement is that he lives here and didn't want to see someone try to build twenty units in that meadow. Mr. Flynn asked about sidewalks. Mr. Burke stated we haven't proposed any sidewalks, saying there aren't any on Raceway Road or in the Town Plan that I know of for this area. He said we wouldn't be suggesting one; a 22' road for seven homes I feel is sufficient for the vehicle and pedestrian traffic.

Ms. Patrick said the open space part of the PUD regulations asks to minimize narrow strips of land. She said she was wondering about the one at the top that attaches to Josh's land. Mr. Burke indicated the piece; saying that is part of the existing parcel. Mr. Girard said it had to do with subdividing the condos. Mr. Burke said he is not sure why, noting it is part of the property line. Mr. King stated you did say there is an established farm road that is in the corridor that is to the left of the condos parcel. Mr. Burke agreed. Mr. King clarified that is the access to the meadow currently. He asked if there is a similar access along the other strip. Mr. Girard responded no, that is a drop-off from my land down to the flat area. Mr. Burke and Ms. Patrick discussed the matter further.

Mr. King said I wanted to establish if there are any old rights of way or anything that we wanted to make sure got treated well in the conveyances later on. Mr. Burke stated the rail bed, which serves as VAST; my suggestion is that we continue to acknowledge that in the legal documents. He said we are not looking to shut off VAST; rather we want people who buy in here to know that it is a VAST trail. Mr. Girard added that this 50' buffer zone here, I would like to keep open for the families and people who like to go down to the river; even if we have to do something over here, people can continue to walk through there. Mr. King said that is why I brought it up because covenants will need to be developed relating to the homeowner's association. He discussed the importance of preserving the VAST trail access and the role of the documents. Josh discussed the current recreational uses, noting he wants to keep that open for everybody.

Ms. Patrick pointed out in the staff notes, before scheduling a preliminary hearing you would want to get on the Selectboard agenda to finalize street detail. Mr. Burke said the regulations I believe that is part of final review. He said we are proposing a road that meets the public works standards. He stated I am going to ask them to take over this road, noting it is in the Village District. He discussed how he has handled it in a previous situation. Ms. Patrick said she spoke to the Town Administrator and encouraged them to do it early. Mr. Burke and Mr. King discussed the interlock with the Selectboard further.

Mr. Burke said some of the questions in the staff notes were about the ownership of the common land and use of the open space. He stated the ownership will be a homeowner's association and we are going to dictate to the attorney the VAST trail and any other uses we identify. He said I went over the 50' buffer and the rationale. Mr. Burke said we also made the conscious decision not to take Lot 1 back to that line, Lot 2 back, and so on; in order to have a real contiguous open space here. He said on traffic, the regulations are 200 trips per day and we would be at about 65; we are way below any trigger for a traffic study here. He stated our traffic would be similar to the eight units in the condos next door.

Mr. Burke said on access, addressing Section 11.1.8.1, based on that overlay with wetlands restrictions and 100-year flood plains, in addition the difference of 25' or so in elevation from Browns River down; I don't feel there is any abutting property here that it would benefit the Town or those owners for showing connections. Mr. King said I think what you are referring to is that the plan asks when we layout a road like this, you really consider that and whether it should be connected through. He said you will want to address this in your final application, what those criteria are any why you have done what you have done.

Mr. Burke state I would like to have initial feedback from DRB about the buffer and critical wildlife habitats. He discussed the corridors, saying it is not my intent to treat that area at this location. He said he agrees with staff about potentially doing some screening here, but I wasn't going to suggest to

my client anything other than maintaining the farm access and maintaining the trail. He asked if the DRB has any feedback on whether they feel the buffer needs to be a wooded buffer. Ms. Patrick read from Section 11.4.8.4, saying I was actually thinking more along back here because there is a habitat block back here according to our overlay. Mr. Burke stated right now the meadow is maintained to right about there; mowed twice per year. He said we are going to be bringing that back to about here and the State will require us to have some form of delineation. He discussed what could be used as delineation and what is not allowed in that area.

Mr. King said what you are talking about answers that and you will want to include the information in the application. Mr. Burke clarified that the application should address the comments in red. Mr. King agreed. Mr. Burke said he didn't see any concerns; items that have been brought up that need to be further flushed out. He addressed the question about stormwater, saying we will trigger the State stormwater discharge permit; we are just over an acre, 1.09 calculated. He stated we will have a construction general permit, which is the State erosion control permit, and a State wastewater permit for the water and the sewer.

Mr. King asked about phasing and construction. Mr. Burke said this would be one phase; we would build the whole road. He said the first section of the road doesn't serve anything, so by the time you get in where you only have to build the other half of the road. He indicated the location of the site infrastructure, saying infrastructure and the road would be one phase; the homes we would like not to be restricted because we probably won't have seven sold and constructed in one year. Mr. Burke said it is a small enough project that we don't feel we should be required to be phased. He discussed the approach to the project.

Mr. York asked about the view. Mr. Burke stated these people have a view back and it is low enough in elevation that it wouldn't affect their view. He discussed the project's impact on the neighbors' views. Mr. Flynn noted some survey issues identified in a nearby parcel, saying the information is in your records. Mr. Burke said that is not unusual. He stated we are on the interior here, so the only pinch point for us is here and here. He said we will probably be good in our one critical place. He said if boundary lines change there, they are really not going to affect us that much.

Public Comment

Mr. Yandow thanked the DRB, saying the letter was the first indication they had that anything was being planned. He said we are now going to become a corner; Raceway is already very busy, dusty in the summer. He asked what will be done to shield us from this road that is going in here. Mr. Yandow expressed concerns about the condos' septic and water, describing the locations of both. He asked what impacts all of the leach fields will have on our well system. He stated we also have underground utilities coming in off of Raceway Road, which is very close to where the proposed road is going. He said we want to know how that is going to be addressed.

Ms. Yandow expressed concern about traffic on Raceway Road, noting the location of the Merchants Bank exit that will be across the road from the proposed driveway. She said the area already can be a difficult area to negotiate with traffic off of Route 15 coming and up Raceway Road at a high rate of speed. She said adding another intersection potentially there, even if there is minimal traffic flow, would be a significant concern. Ms. Yandow said buses stop adjacent to our property, using the Merchants Bank driveway. She said her primary concern is the increased potential for collisions at that intersection. She said she is very happy to hear the recreational areas would still be useable.

Mr. King asked the applicant to address the separation between the driveway and the condos. Mr. Burke said there is a pretty good hedge here. He said we will look at them with preliminary design, but I think at a minimum we would be looking at paving the first section because that is generally where you get the dust. He said this hedgerow answers the question of dust from this section. Mr. Burke stated on the septic and water, we will locate them; we need a State wastewater permit and need to meet the isolation distances. He said the groundwater flow from here is away from their well and we are beyond the isolation of their well, which is the State standards.

Mr. Burke stated we will be locating the well, but we are outside of the standards. He said we are not proposing on-site water, so we don't need to look at interference because we have the ability to connect to municipal water. He said we have not yet located the pole, but it is in this vicinity. Mr. Burke stated I don't know we are going to impact them, but if we do the utility will move them and the developer has to help pay for the move.

Mr. King asked him to address the other question/concern about the design of the intersection, saying this map doesn't show the driveway to Merchants Bank which is significant to the traffic flow. He said you will want to make sure the final design takes that into account and shows the configuration of the intersection. He said I am not a traffic engineer, so I am not sure if it makes sense to try to be directly across or staggered. Mr. Burke explained the rationale for placing the access, so it is not a direct access onto Route 15. He discussed traffic in the area, saying I am going to look at stacking in the morning peak hour. He stated I realize that traffic is always important, discussing the matter further.

Mr. King closed the hearing, saying the purpose was to discuss the issues. He said Mr. West, who is not here, asked him to remind you that there is a State energy standard and you will have to certify to it. Mr. Burke discussed the potential for solar on the property.

3. A request by Robert and Lisa Hill and Burton Rawson for a Sketch Plan Review of a boundary line adjustment (minor subdivision). The proposed acreage to be transferred is +/-100 acres. This project is located at 318 Cilley Hill Road in the Agriculture Zoning District.

Applicant's Presentation

Mr. Flynn recused himself from the hearing and moved into the public. Mr. King explained Mr. Flynn has a profession interest in the hearing. Mr. Flynn stated Robert and Lisa are looking to purchase wooded lands of Rawson's to sugar the land that Rawson has, which they are already sugaring. Mr. Hill said they have been for 25 years. Mr. Flynn said they would like to purchase the property and are looking for a boundary line adjustment between Rawson Trust and their lands. He said currently they own a large portion of land in Underhill on this side. He indicated the Town line.

Mr. Flynn said they own, between Robert and Lisa and Robert's parents, a good portion of land through here. He said what they are looking to do on the Jericho side, to purchase the land in blue from the Rawson's. He also indicated the land they are going to purchase from Rawson's in Underhill. Mr. Flynn said it is roughly 100 acres in Jericho and 50 acres in Underhill. He said in both situations we could be talking +/- 5 acres. He said he has some preliminary lines around this for sketch review. He stated they are looking to continue sugaring; they have a nice sugaring operation up there now.

Mr. Flynn said he has a fairly good network of roads built through there for four-wheelers and larger equipment. He stated some staff comments were in regards to access, saying the comments are correct right now there is no access, with the creation of this new lot, to it from Jericho; only from Underhill. He reiterated it is a fairly easy drive to access this land on this side.

Board Questions

Mr. King clarified that presently that land is contiguous with the Rawson parcel to the left and that has road access. Mr. Flynn said yes, through Cilley Hill Road. He indicated the location of the access. Mr. King clarified Rawson's fronts on Cilley Hill Road and presently this 100 acres is contiguous with that part, so it has access to Cilley Hill Road. He asked if there really is access through from Rawson's on the Cilley Hill side or is it from the Underhill side. He asked how the land is currently accessed. Mr. Flynn said from the Underhill side. He and Mr. King discussed the access further, including the location and condition of the access.

Mr. Flynn discussed an access that remains in Underhill but was discontinued on the Jericho side. Ms. Hamilton clarified whether the access goes to this. Mr. Flynn said no, it only extends to the Town line. He said it doesn't have any impact on the proceedings here. Mr. King stated the primary issue here is creating a back land lot. Mr. Flynn said there are options; they are looking to just keep sugaring. He said certain deed restrictions could be placed on this and as long as it is used for sugaring other access is not needed; in the event they are going to put some houses up in there, they have to come before the DRB again to look at access. He said it would be more likely to be accessed across the lands that they own in Underhill.

Mr. Flynn said it is tough reading through the regulations, I agree; it is hard to write regulations to foresee something like this. Mr. King stated I think it is the opposite, the regulations are trying to foresee that four years from now someone may decide to put a house up in there; are we letting you cut that off so there is no reasonable access to it. He said that is what the regulations don't let you do, is form a lot that doesn't have access. Mr. Flynn reiterated that certain restrictions can be placed in the documents at purchase.

Ms. Patrick asked if there are any agricultural covenants that are used regularly for this. Mr. Flynn said I looked in the Vermont statutes and could not find anything that said that they could. He discussed an example. Ms. Patrick said Section 10.12.4 has waiver authority, explaining what is allowed; saying I am sure if DRB feels that this is one of those situations. Mr. Flynn and Mr. King discussed the waiver authority and reasons as applicable to the proposal.

Mr. York asked where the access is located. Mr. Flynn indicated the access on the plan. Mr. Hill stated there is a 60' easement up through there. Mr. Flynn said it is on his parent's land. Mr. Hill noted I'm on the deed. Mr. Flynn said there is a 60' deeded access to their home. Mr. York clarified the issue about access to it is just from our Town. He said the concern then is in terms of future development and ensuring there is access. Mr. Hill said I am not sure how much future development there would be up there, there is a lot of ledge up there.

Mr. King stated this particular lot it may not be applicable, but the regulations say you are not allowed to make a new lot that doesn't have any access. Mr. Flynn said there has to be a basis for a waiver. Mr. King clarified that the argument is that the DRB should waive the access rule because it creates a lot that is in contiguous use in the sugar woods and does have access on the Underhill side.

Mr. Flynn said it is contiguous for that and for the landowner on the other side. The DRB, Mr. Flynn, and Ms. Patrick discussed the possible waiver further.

Ms. Hamilton asked how this will get recorded in the land records. Mr. Flynn stated there are a couple ways: a boundary line adjustment, quit claim deed and not doing it as selling a lot; or if they try to create this lot individually, then we have to survey the whole thing. He said right now we are only doing a survey to reestablish this line. He explained the survey approach if the conveyance was just as a parcel. Mr. King asked about the narrow triangle and narrow strip on the lot. Mr. Hill said that is the Levanways, when he did the subdivision for the Higgins lot. Mr. King clarified he kept that other strip. Mr. Hill said that was on the Higgin's land and that had nothing to do with this. He and Mr. King discussed whether there was any other right of way in that area. Ms. Patrick stated there is pretty clear criteria here; if you waive it you have to meet the applicable provisions of these regulations. Mr. King said that is the only thing I see that is an issue and meeting the waiver criteria for that rule.

Mr. Hill clarified that because in Jericho, it has to be accessed from Jericho. Mr. King said that is what the rules say; you are not allowed to create a lot in Jericho that doesn't have access in Jericho. Mr. Flynn stated this is not the first time a farmer has had land on both sides of a town and didn't have access to another one. Mr. King said the house I live in right now is straddled across a town line. He discussed how it was done and why the regulations are trying to prevent these situations.

Mr. Flynn said the reason for the rule is for development purposes, but we are not looking to develop this. Mr. King pointed out that we are not creating a separately conveyed lot here; we are doing the lot because it is contiguous with the one on the Underhill side. He stated that makes a big difference. He discussed the rationale and use of the land across the Town line. Mr. Flynn and Mr. King continued to discuss the regulations and the proposal. Mr. York stated the rule is to keep people from purchase property that you can't get to and this isn't that case.

Mr. King clarified that if all of this happens, those three properties will all be contiguous and conveyed. Mr. Flynn agreed, we are doing away with property lines. Ms. Patrick asked if Mr. Hill wanted to sell his land in Jericho; the Town line is not a boundary line, so it is irrelevant. Mr. King said it is not irrelevant to this. Mr. Flynn said it is not to this, but to the overall use and consideration. Mr. King stated it is irrelevant to the use right now. Ms. Patrick said I'm confused about how the deeds would be conveyed, instead of a separate lot altogether. Mr. Flynn explained how the conveyance would occur.

Mr. King said I don't think that is the important point; yes, that is right. He stated the important point is that it gets conveyed to the same owner as the two adjacent pieces, creating a bigger lot. He said it happens to cross the Town line, but you are creating a bigger lot. Mr. King said the plan is trying to get us to not fragment things unnecessarily, and not create a landlocked lot. He said if you are creating this conveyance that keeps it contiguous with something that has access, it isn't back land; it is only back land because of the Town line.

Mr. Flynn addressed Ms. Patrick, saying from a title view, the Town line really won't exist. He explained how the parcel would be treated as a whole unit. Ms. Patrick clarified the deed won't reference the Town line. Mr. Flynn said yes it will indirectly because the deed will reference the plan and they will become one. Mr. York asked how many parcels we have in Jericho that don't have access in Jericho. Mr. Flynn said several on Park Street. They discussed some examples on and near

the Town line. Mr. York asked if this would get us into any kind of required support of that road or anything. Ms. Patrick asked what road. Mr. York said the Class IV road for Underhill. Mr. Flynn explained how the road would be opened up again, noting there is a full petition process. Mr. King clarified that Jericho already gave up that right of way. Mr. Flynn agreed, saying it could be petitioned to be reopened. He and Mr. King discussed the matter further.

Public Comment

Ms. Williams said she heard it said that only the northern boundary is being surveyed; asking why that is. She said the western boundary is squishy boundary that relies on an old fence. Mr. King clarified that she is asking about her west boundary that is to Rawson. Ms. Williams agreed. Mr. King clarified the boundary in question. Mr. Flynn indicated her parcel on the map.

Mr. Davis stated he thinks it is a good idea to keep forest land all together and to keep him farming.

Mr. King asked the applicant to respond to what you have or are going to survey. Mr. Flynn said I currently have already surveyed and set corners for this strip, all the way up to here. He said it is very expensive to survey the whole piece. He said we are only affecting this, so the issue of where your property line is before and after is another topic. Mr. Flynn explained his approach to the survey and what may be required to gain a comfort level with the lines. Mr. King asked Mr. Flynn to further explain the surveyor rule. He and Mr. Flynn discussed the matter further.

Mr. Flynn, Ms. Patrick, and the DRB members discussed the applicable regulations for the application. Ms. Hamilton expressed concern about making a landlocked lot, noting she understands the Town line role and agrees the proposal makes sense. She said she wouldn't mind running it by our attorney to see if it is okay. Ms. Patrick agreed the attorney could review it.

Mr. Flynn said he understand where the DRB is coming from. He stated it is two different things: 1) whether there is a proper avenue to grant a permit; and 2) a parcel that will have access for deed title for marketability. He suggested how conditions could be placed on an approval to address access concerns. Mr. Flynn also emphasized the boundary line adjustment will create a contiguous lot that will have the same use. Mr. King clarified that a condition to an approval is being considered. He discussed how such a condition might work.

Ms. Hamilton said she does not want to get in a position where a precedent is established. Ms. Patrick agreed to ask Claudine about the case law. The DRB members agreed it would be very helpful to get Town attorney's opinion. Mr. King asked Ms. Patrick to relay the attorney's response to the applicants for their final application. Mr. Flynn clarified the final application will be seeking a waiver. Mr. King agreed. Mr. Flynn asked when they would receive an answer. Ms. Patrick said probably within a week. Those present discussed the timeline and the deadlines for hearings in 2016.

The Development Review Board adjourned at 9:55 p.m.